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OFFICE OF PETITIONS

In re Application of
Saathoff et al.

Application No. 09/554,343

International Filing Date: September 14, 1997
For: Motor-Driven Screw Driver

: Decision on Petition for
: Patent Term Extension

The above-identified application has been forwarded to the undersigned for consideration on a petition for patent term extension entitled "Petition Under 37 CFR 1.181 to Review and Correct the Determination of the Length of Patent Term Extension Under 37 CFR 1.701," received on September 12, 2005.

The petition is GRANTED.

Petitioner notes that the Notice of Allowance dated June 13, 2005, in the above-identified application incorrectly stated that the patent term extension was 56 days. Petitioner argues that applicant is entitled to 503 days of patent term extension, not the 56 days of extension as stated in the Notice of Allowance.

A Notice of Appeal was filed in the above-identified application on August 29, 2002. On January 30, 2004, the Board of Appeals and Interferences affirmed-in-part the decision of the examiner in the above-identified application. Since the above-identified application was filed after June 7, 1995, there is no terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review, and issuance of the application as a patent was delayed due to appellate review resulting in a reversal of an adverse decision of patentability, the patent to issue from the application is entitled to an extension of the patent term. The period of delay in the above-identified application is the period beginning on August 29, 2002, the date that the Notice of Appeal was filed and ending on January 30, 2004, the date of the final decision in favor of the applicant. Three years after the earliest effective filing date of the application is September 14, 2002. Accordingly, the period of extension is required to be reduced pursuant to 37 CFR 1.701(d)(1) by the amount of time prior to three years after the filing date of the application. As a result, the period of extension is 504 days, the period from September 14, 2002 to January 30, 2004, including the beginning and end dates.

After mailing of this decision, the above-identified application will be forwarded to Office of Publications for further processing. The patent, if issued, will include an indication that the patent term is extended by **504 days**

Petitioner's deposit account has not been charged a petition fee.

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.



Mark O. Polutta
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Office of the Deputy Commissioner
for Patent Examination Policy